IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 4128 of 2007(N)

PETITIONER:

V. UDAYAKUMAR,
HOLY WAY, NALUKODI P.O., CHANGANACHERRY,
KOTTAYAM DISTRICT.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV

RESPONDENTS:

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1. UNION BANK OF INDIA,
REPRESENTED BY ITS GENERAL MANAGER, CENTRAL OFFICE
239, VIDHAN BHAVAN MARGH, NARIMAN POINT,
MUMBAI-400 021.

2. THE AUTHORIZED OFFICER,
UNION BANK OF INDIA, REGIONAL OFFICE,
UNION BANK BHAVAN, P.B.NO.307, M.G. ROAD,
STATUE, THIRUVANANTHAPURAM.

3. THE BRANCH MANAGER,
UNION BANK OF INDIA, THIRUVALLA BRANCH, THIRUVALLA

ADDL. RESPONDENTS:

4. SRI.ARUN THOMAS ABRAHAM,
THOTTINGAL KANJIRATHUMMOOTTIL VARICAD,
KUTTAPUZHA P.O., THIRUVALLA.

5. PUSHPAGIRI MEDICAL SOCIETY, THIRUVALLA P.O.,
REP. BY ITS SECRETARY.

6. BINDU PRAKASH, PUTHUPARAMBIL HOUSE,
MULAMKUZHA JUNCTION,
NATTAKAM P.O., KOTTAYAM.

(ADDL. RESPONDENTS 4 AND 5 ARE IMPLEADED AS PER ORDER DT.10.4.2007 IN I.A. 4973/2007.)

(ADDL. 6TH REPSONDENT IS IMPLEADED AS PER ORDER DT.20.8.2007 IN I.A. 11456/2007.)

R1 TO 3 BY ADV. SRI.A.S.P.KURUP, SC, UBI
R6 BY ADV. SRI.GEORGE MECHERIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF ORDER OF THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM DT.17.2.2006 IN O.A. NO.203/2003.

P2: TRUE COPY OF THE NOTICE ISSUED BY THE RECOVERY OFFICER OF D.R.T., ERNAKULAM DT.23.5.2006.

P3: TRUE COPY OF NOTICE DT.2.12.2006 ISSUED TO PETITIONER UNDER THE SECURITISATION ACT FOR TAKING POSSESSION OF THE ASSETS.

P4: TRUE COPY OF THE TENDER NOTICE ISSUED BY THE AUTHORISED OFFICER UNDER THE SECURITISATION ACT IN "MATHRUBHOOMI" DAILY DT.29.12.2006.

P5: TRUE COPY OF THE REQUEST GIVEN BY THE PETITIONER TO R3 DT.1.2.2007.

P6: TRUE COPY OF PROPOSAL MADE BY THE PETITIONER BEFORE R1 DT.1.2.2007.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.4128 of 2007

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Dated this the 28th day of June, 2007.

JUDGMENT

The prayer is only for direction to the first respondent to consider grant of OTS benefit to the petitioner. Standing Counsel for first respondent submitted that no OTS scheme is in force as of now. However, it is conceded that altogether a sum of Rs.80 lakhs is already recovered either through payment or through recoveries in sale. Balance is around Rs.60 lakhs. The petitioner has undertaken to pay a sum of rupees forty lakhs within two weeks from now. If another forty lakhs rupees is paid, I feel the Bank should consider grant of some incentives to the petitioner like waiver of penal interest, default interest etc. In the circumstances, W.P. is disposed of directing the petitioner to pay Rs.40 lakhs on or before 15.7.2007. Recovery of balance will remain stayed for one month within which time the first respondent will communicate incentives being granted to the petitioner and timeframe within which balance amount is to be paid for the petitioner to comply with the same. All charges in favour of the Bank over mortgaged properties will stand until loan account is settled. If petitioner remits Rs.40 lakhs, the first respondent-Bank is directed to pay

5% thereon to the additional respondents 4 and 5 being advance paid by them towards purchase price of the property purchased in auction, within three weeks from the date of making payment by petitioner.

C.N.RAMACHANDRAN NAIR
Judge

pms